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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,396	09/18/2003	Theodore Benderev	MEDTR-001A	9330

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EXAMINER	
HOEKSTRA, JEFFREY GERBEN	
ART UNIT	PAPER NUMBER
3736	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/666,396	BENDEREV, THEODORE	
	Examiner	Art Unit	
	Jeffrey G. Hoekstra	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice of Amendment

1. In response to the amendment filed on 09/25/2006, amendment(s) to the specification, and amended claim(s) 1, 11, and 21-24, is/are acknowledged. The current rejections of the claim(s) 1-26 is/are *withdrawn*. The following new and reiterated grounds of rejection are set forth:

Claim Objections

2. Claims 1, 11, 21, and 24 are objected to because of the following informalities:

3. The positive recitation of "greater than said link" appears to lack antecedent basis. It is noted Applicant may be referring the cross-sectional width of the link.

4. The term "substantially" in claim(s) 1, 11, 21, and 24 is a relative term that appears to render the claim(s) indefinite. The term "substantially" is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The relationship between the cross-section magnitudes of the sensor and link is unclear.

5. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Brockway et al (US 6,296,615 B1).

8. For claims 1 and 11, Brockway et al discloses an anatomical pressure-sensing device (110), comprising: (a) a pressure sensor (174, 274, 542) for determining the pressure exerted within an anatomical structure, producing a signal corresponding to the pressure of compression against said structure, and having a link (144,544) extending therefrom for transmitting said signal, wherein said sensor has a medial cross-section greater than said cross-section of said link (as best seen in Figures 1 and 5); and (b) a monitor (column 4 lines 38-40) coupled to said link via cable (175) for receiving said signal and indicating the results.

9. For claims 2 and 12, Brockway et al discloses an anatomical pressure-sensing device, wherein said pressure sensor comprises an encapsulated lattice (cross-linked) structure (130 and column 5 line 3 – column 6 lines 9).

10. For claims 3 and 13, Brockway et al discloses an anatomical pressure-sensing device, wherein said lattice structure selectively collapses upon external compressive force application (column 5 line 3 – column 6 lines 9).

11. For claims 4 and 14, Brockway et al discloses an anatomical pressure-sensing device, wherein said lattice structure incrementally collapses thereby decreasing volume in proportion to external compressive force application (column 5 line 3 – column 6 lines 9).

12. For claims 5 and 15, Brockway et al discloses an anatomical pressure-sensing device, wherein said lattice structure is a plastic material (column 5 line 3 – column 6 lines 9).

13. For claims 6 and 16, Brockway et al discloses an anatomical pressure-sensing device, wherein said pressure sensor's lattice structure comprises a member having a quantity of compressive foam (130); a variety of light, porous, semirigid or spongy materials, said compressive foam transitioning between a first expansive state when a first baseline amount of pressure is applied and a second compressed state having a reduced volume corresponding to a second higher externally applied pressure (column 5 line 3 – column 6 lines 9).

14. For claims 7 and 17, Brockway et al discloses an anatomical pressure-sensing device, wherein said lattice structure transitions between a first non-collapsed configuration with a predetermined volume and a second collapsed configuration with a volume that is less than said predetermined volume (column 5 line 3 – column 6 lines 9).

15. For claims 8 and 18, Brockway et al discloses an anatomical pressure-sensing device, wherein said foam incrementally decreases in volume as a result of an externally applied higher pressure (column 5 line 3 – column 6 lines 9).

16. For claims 9-10 and 19-20, Brockway et al discloses an anatomical pressure-sensing device, wherein said lattice structure is encapsulated within a polymeric casing (column 6 lines 41-58).

17. For claims 21-26, Brockway et al discloses an anatomical pressure-sensing device (110) and method for measuring and monitoring the amount of pressure within an anatomical structure, comprising: (a) providing a sensor (174, 274, 542) positionable within an anatomical structure for determining the pressure exerted within said anatomical structure, producing a signal corresponding to the degree of externally applied pressure of compression against said structure, and having a link (144,544) extending therefrom for transmitting said signal, wherein said sensor has a medial cross-section greater than said cross-section of said link (as best seen in Figures 1 and 5), and comprising an encapsulated member having an internal pressure/volume sensor generating a signal corresponding to the externally applied pressure (column 5 line 3 – column 6 lines 9); (b) providing a monitor (column 4 lines 38-40), said monitor being coupled to said link via cable (175) and indicating the pressure/volume inside said structure as indicated by said signal generated by said sensor; (c) inserting said sensor within said anatomical structure; and (d) monitoring said signal generated by said sensor positioned in step (c) by said monitor provided in step (b) (column 11 line 44 – column 12 line 43).

Response to Arguments

18. Applicant's arguments filed 09/25/2006 have been fully considered but they are not persuasive. Applicant argues the apparatus as taught by Brockway et al does not anticipate the claimed instant invention because teach each and every element is not disclosed, specifically arguing the instant invention "is inoperable to be deployed at the

distal end of a catheter" and "the devices disclosed in Brockway et al are specifically designed and configured to be deployed through the catheters having a uniform diameter". The examiner disagrees and maintains Brockway et al anticipates claims 1-26 as broadly as structurally claimed.

19. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the instant invention "is inoperable to be deployed at the distal end of a catheter") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JH

EXAMINER